

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

AMANDA MASTEL,

Plaintiff,

v.

MARTIN O'MALLEY, Commissioner of
Social Security,

Defendant.

8:23CV271

ORDER

On June 20, 2023, plaintiff Amanda Mastel (“Mastel”) brought this action (Filing No. 1) against then-Acting Commissioner of Social Security Kilolo Kijakazi¹ challenging the denial of her request for disability benefits. The Commissioner later filed an Unopposed Motion to Reverse and Remand pursuant to Sentence Four of 42 U.S.C. § 405(g) (Filing No. 12), asking the Court to enter judgment (1) reversing the Commissioner’s final decision in Mastel’s administrative case and (2) remand the matter to “offer Plaintiff the opportunity for a new hearing, take further action to complete the administrative record, and issue a new decision.” On October 20, 2023, the Court granted that motion (Filing No. 14) and entered judgment in favor of Mastel (Filing No. 15).

Now before the Court is Mastel’s Petition for Attorney’s Fees (Filing No. 16) under the Equal Access to Justice Act (“EAJA”), *see* 28 U.S.C. § 2412(d). “The EAJA provides for the award of attorney’s fees if: (1) the person is a prevailing party; (2) the individual’s net worth did not exceed \$2,000,000 at the time the civil action was filed; and (3) the fees and expenses were ‘incurred by that party in [the] civil action’ in which it

¹On December 20, 2023, Martin O’Malley became the Commissioner of Social Security (the “Commissioner”). The Court has substituted him as the defendant in this matter as requested by the Commissioner (Filing No. 17). *See* Fed. R. Civ. P. 25(d).

prevailed.” *SEC v. Zahareas*, 374 F.3d 625, 630 (8th Cir. 2004) (citing 28 U.S.C. § 2412(d)(1)(A)-(2)(B)).

In light of the Court’s reversal and remand of the matter, Mastel asks the Court to award her \$3,373.82 in attorney fees, which represents 13.8 hours of work at a billing rate of \$244.48 an hour. In support of her motion, Mastel has provided an itemized spreadsheet of her counsel’s hours. The Commissioner does not object to Mastel’s motion (Filing No. 17) but notes that such a fee must be made payable to Mastel and “may be subject to offset” under *Astrue v. Ratliff*, 560 U.S. 586, 592-93 (2010).

Based on its review of the parties’ submissions, the Court finds Mastel is entitled to an EAJA attorney fee award of \$3,373.82 to be paid by the Social Security Administration. Mastel is a prevailing party in this matter and otherwise meets the statutory requirements under the EAJA for a fee award. *See* 28 U.S.C. § 2412(d)(1)(a). Her request is also timely and seeks a reasonable fee amount. *See Pottsmith v. Barnhart*, 306 F.3d 526, 527 (8th Cir. 2002) (“To obtain attorney fees under the EAJA, the prevailing party must submit a fee application ‘within thirty days of final judgment in the action.’” (quoting 28 U.S.C. § 2412(d)(1)(B))); *see also* 28 U.S.C. § 2412(d)(2)(A) (stating the Court may award fees in excess of \$125 per hour if warranted by an increase in the cost of living).

Although payable to Mastel, the EAJA fee award can be sent to her attorneys for distribution. *See Ratliff*, 560 U.S. at 589-90. Accordingly,

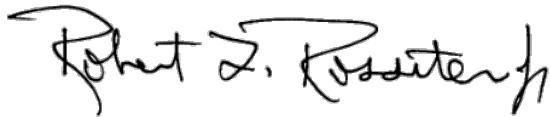
IT IS ORDERED:

1. Plaintiff Amanda Mastel’s Petition for Attorney’s Fees under 28 U.S.C. § 2412(d) (EAJA) (Filing No. 16) is granted.
2. Mastel is awarded attorney fees in the amount of \$3,373.82.
3. The Social Security Administration shall make the fee award payable to Mastel and deliver the payment to the Kappelman Law Firm at its address of record.

4. A separate judgment will issue.

Dated this 11th day of January 2024.

BY THE COURT:



Robert F. Rossiter, Jr.
Chief United States District Judge